

AMENDED IN SENATE AUGUST 26, 2002

AMENDED IN SENATE JUNE 19, 2002

AMENDED IN ASSEMBLY APRIL 23, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

## ASSEMBLY BILL

**No. 2787**

**Introduced by Assembly Member Aroner**

February 25, 2002

---

An act to amend Section 51.2 of the Civil Code, ~~and~~ to add Section 17959 to the Health and Safety Code, *and to add Section 9105.1 to the Welfare and Institutions Code*, relating to building standards.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2787, as amended, Aroner. Building standards: universal design.

Existing law presumes that a housing development for senior citizens constructed on or after January 1, 2001, is designed to meet the physical and social needs of senior citizens for purposes of meeting existing laws regarding age discrimination in housing if the housing development includes specified elements.

Existing law also encourages developers of these housing developments to implement in their construction the principles of universal design or any other design guidelines for home modifications for seniors that may be promulgated by the California Department of Aging.

This bill would, instead, by December 31, 2003, require the Department of Housing and Community Development, in consultation with specified state agencies, and without significantly impacting

housing cost and affordability, to develop guidelines and at least one model ordinance for new construction and home modifications that are consistent with particular principles of universal design or other similar design guidelines, as specified.

Under the existing State Housing Law the California Building Standards Code applies to any city or county that does not amend, add, or repeal ordinances or regulations that impose the same requirements as the code, except that the law authorizes a city or county to make changes or modifications as it determines are reasonably necessary because of local climatic, geological, or topographical conditions if the findings of reasonable necessity and the modification or change are filed with the California Building Standards Commission.

The bill would authorize, commencing January 1, 2005, a city, county, or city and county to make, by ordinance, changes or modifications to the requirements of the code if the city, county, or city and county determines that the ordinance is reasonably necessary and is substantially the same as the guidelines or model ordinance prepared by the department pursuant to the bill.

The bill would encourage developers of housing for senior citizens, persons with disabilities, and other persons and families, *in a city or county where a universal design ordinance has not been adopted*, to seek information regarding the principles of universal design, as specified.

*The bill would authorize the California Department of Aging, in partnership with specified entities, to develop and provide consumer advice regarding home modification for seniors and persons with disabilities.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares as follows:
- 2 (a) California's population is aging, and most aging persons
- 3 prefer to stay in their homes and neighborhoods as long as
- 4 possible. In addition, many households share their homes with
- 5 parents, children, spouses, and other household members who
- 6 have a range of temporary or permanent mobility disabilities. For
- 7 all of these persons, the social and financial costs of residential



1 care settings often are excessive and impose additional costs for  
2 government assistance programs.

3 (b) Many California households are seeking to have their  
4 homes constructed or modified to allow for full lifecycle use,  
5 available for visits or residence by parents, grandparents, and  
6 others who have difficulty entering or using these homes due to  
7 barriers resulting from traditional construction standards. Adding  
8 home modifications after construction far exceeds the cost of  
9 including barrier-free standards at the time of construction and  
10 often results in temporary displacement until modifications are  
11 complete.

12 (c) Many government and private entities have considered  
13 adoption of the principles of universal design to allow for inclusive  
14 use of homes. Universal design has ~~two~~ *several* major  
15 components: designing products so that they are flexible enough  
16 that they can be used by people with a wide range of abilities and  
17 circumstances, and designing homes and appliances so that they  
18 are compatible with assistive technologies that might be used by  
19 those who cannot efficiently use the products directly. Universal  
20 design options include, but are not limited to, zero-step entries  
21 based on site grading or ramps, wider doorways and doors with  
22 lever handles, bathrooms amenable to the addition of assistive  
23 facilities, safe passageways and work areas, and use of  
24 appropriately installed switches and receptacles, counters, and  
25 appliances.

26 (d) The costs of construction or home modifications using the  
27 principles of universal design are increased by inadequate  
28 knowledge of the options, benefits, and opportunities, and the lack  
29 of consistent standards throughout a jurisdiction or the state. Local  
30 governments do not have authority to enact ordinances regulating  
31 universal design standards for residences under current state laws.

32 (e) The development and dissemination of guidelines and  
33 model statewide ordinances, and the authority for enactment of  
34 these model ordinances by local governments, will provide a  
35 variety of social and financial cost benefits to individuals and  
36 government agencies serving persons who are ~~aging, frail, and~~  
37 ~~disabled~~ *aging or frail*. They also will maintain building code  
38 consistency, and encourage the development of new appliances  
39 and assistive devices that encourage inclusive use of homes. They  
40 also will permit persons who are aging, ~~disabled~~, or frail to remain

1 with their families, in their own homes, for longer periods by  
2 encouraging increased development and modification of homes  
3 with barrier-free access and use.

4 SEC. 2. Section 51.2 of the Civil Code is amended to read:

5 51.2. (a) Section 51 shall be construed to prohibit a business  
6 establishment from discriminating in the sale or rental of housing  
7 based upon age. Where accommodations are designed to meet the  
8 physical and social needs of senior citizens, a business  
9 establishment may establish and preserve that housing for senior  
10 citizens, pursuant to Section 51.3, except housing as to which  
11 Section 51.3 is preempted by the prohibition in the federal Fair  
12 Housing Amendments Act of 1988 (P.L. 100-430) and  
13 implementing regulations against discrimination on the basis of  
14 familial status. For accommodations constructed before February  
15 8, 1982, that meet all the criteria for senior citizen housing  
16 specified in Section 51.3, a business establishment may establish  
17 and preserve that housing development for senior citizens without  
18 the housing development being designed to meet physical and  
19 social needs of senior citizens.

20 (b) This section is intended to clarify the holdings in *Marina*  
21 *Point, Ltd. v. Wolfson* (1982) 30 Cal. 3d 72 and *O'Connor v.*  
22 *Village Green Owners Association* (1983) 33 Cal. 3d 790.

23 (c) This section shall not apply to the County of Riverside.

24 (d) A housing development for senior citizens constructed on  
25 or after January 1, 2001, shall be presumed to be designed to meet  
26 the physical and social needs of senior citizens if it includes all of  
27 the following elements:

28 (1) Entryways, walkways, and hallways in the common areas  
29 of the development, and doorways and paths of access to and  
30 within the housing units, shall be as wide as required by current  
31 laws applicable to new multifamily housing construction for  
32 provision of access to persons using a standard-width wheelchair.

33 (2) Walkways and hallways in the common areas of the  
34 development shall be equipped with standard height railings or  
35 grab bars to assist persons who have difficulty with walking.

36 (3) Walkways and hallways in the common areas shall have  
37 lighting conditions which are of sufficient brightness to assist  
38 persons who have difficulty seeing.



1 (4) Access to all common areas and housing units within the  
2 development shall be provided without use of stairs, either by  
3 means of an elevator or sloped walking ramps.

4 (5) The development shall be designed to encourage social  
5 contact by providing at least one common room and at least some  
6 common open space.

7 (6) Refuse collection shall be provided in a manner that  
8 requires a minimum of physical exertion by residents.

9 (7) The development shall comply with all other applicable  
10 requirements for access and design imposed by law, including, but  
11 not limited to, the Fair Housing Act (42 U.S.C. Sec. 3601 et seq.),  
12 the Americans with Disabilities Act (42 U.S.C. Sec. 12101 et  
13 seq.), and the regulations promulgated at Title 24 of the California  
14 Code of Regulations that relate to access for persons with  
15 disabilities or handicaps. Nothing in this section shall be construed  
16 to limit or reduce any right or obligation applicable under those  
17 laws.

18 ~~In addition, developers of senior citizen housing developments~~  
19 ~~constructed on or after January 1, 2001, are encouraged, but not~~  
20 ~~required, to implement in their construction the principles of~~  
21 ~~universal design consistent with the guidelines or model~~  
22 ~~ordinances developed pursuant to Section 17959 of the Health and~~  
23 ~~Safety Code.~~

24 SEC. 3. Section 17959 is added to the Health and Safety Code,  
25 to read:

26 17959. (a) No later than December 31, 2003, the department  
27 shall consider proposed universal design guidelines for home  
28 construction or home modifications which may be submitted by  
29 the California Department of Aging, *the California Commission*  
30 *on Aging*, the Department of Rehabilitation, the office of the State  
31 Architect of the Department of General Services, ~~and the office of~~  
32 ~~the State Fire Marshal~~, the California Building Standards  
33 Commission, *or other state departments*. Thereafter, the  
34 department, without significantly impacting housing cost and  
35 affordability, shall, in consultation with these agencies, develop  
36 guidelines and at least one model ordinance for new construction  
37 and home modifications that is consistent with the principles of  
38 universal design as promulgated by the Center for Universal  
39 Design at North Carolina State University or other similar design  
40 guidelines that enhance the full life-cycle use of housing without

1 regard to the physical abilities or disabilities of a home's occupants  
2 or guests *in order to accommodate a wide range of individual*  
3 *preferences and functional abilities*. In developing these  
4 guidelines and model ordinances, the department also shall meet  
5 with, and solicit information from, individuals and organizations  
6 representing individuals and entities with interests in construction,  
7 local governments, the health and welfare of senior citizens and  
8 persons with disabilities, architects, and others with expertise in  
9 these design and living issues. The department shall ensure that at  
10 least three meetings subject to the Bagley-Keene Open Meeting  
11 Act (Article 9 (commencing with Section 11120) of Chapter 1 of  
12 Part 1 of Division 3 of the Government Code) shall occur, that shall  
13 include opportunities for government agencies, individuals, and  
14 organizations identified in this subdivision to participate and  
15 comment on proposed guidelines or draft model ordinances.

16 (b) (1) In addition to the authority granted by Sections  
17 17958.5 and 18941.5, and for the purposes of this section, a city,  
18 county, or city and county may, by ordinance, make changes or  
19 modifications in addition to or in excess of the requirements  
20 contained in the California Building Standards Code adopted  
21 pursuant to Sections 17922 and 18928 if the city, county, or city  
22 and county makes a finding that the changes and modifications are  
23 reasonably necessary and are substantially the same as the  
24 guidelines or model ordinances adopted pursuant to subdivision  
25 (a). In no case shall the changes or modifications be less restrictive  
26 than the requirements published in the California Building  
27 Standards Code.

28 (2) A city, county, or city and county adopting an ordinance  
29 pursuant to this subdivision shall file a copy of the ordinance and  
30 the findings with the department. No such ordinance shall become  
31 effective or operative for any purpose until the findings and the  
32 ordinance have been filed with the department. The department  
33 may review the findings and each ordinance to evaluate their  
34 consistency with this subdivision, and shall provide written  
35 comments to the adopting entity as to any such evaluation.

36 (c) (1) In a city, county, or city and county where a universal  
37 design ordinance has not been adopted pursuant to subdivision (b),  
38 developers of housing for senior citizens, persons with disabilities,  
39 and other persons and families are encouraged, but not required ~~to~~  
40 , to seek information and assistance from the department and the

1 California Department of Aging regarding the principles of  
2 universal design specified in subdivision (a) and consider those  
3 principles in their construction.

4 (2) The department, the California Department of Aging, and  
5 any other interested state agency also may, to the extent feasible,  
6 disseminate information to interested persons and entities in all  
7 parts of the state regarding the principles of universal design and  
8 their relationship to new construction and home modifications.

9 (d) Subdivision (b) shall become operative on January 1, 2005.

10 *SEC. 4. Section 9105.1 is added to the Welfare and*  
11 *Institutions Code, to read:*

12 *9105.1. The department, in partnership with the area*  
13 *agencies on aging, the Department of Rehabilitation, any*  
14 *independent living centers, any contractor selected to implement*  
15 *the federal Assistive Technology Act of 1998 (Public Law*  
16 *105-394), and any organization that serves seniors and persons*  
17 *with disabilities, may develop and provide consumer advice*  
18 *regarding home modification for seniors and persons with*  
19 *disabilities.*

